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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/002,584 01/05/98 WUGOFSKI

T 450222US1

EXAMINER

LM02/0523

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ART UNIT

PAPER NUMBER

2711

DATE MAILED:

05/23/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/002,584

Applicant(s)

Wugofski

Examiner

Reuben M. Brown

Group Art Unit

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☒ Responsive to communication(s) filed on Jan 31, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-43 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-43 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9-15 } 32-39

2. Claims ~~9, 15, 32, 39~~ are rejected under 35 U.S.C., second paragraph as lacking antecedent basis. Claim 9 recites the limitation "said determination" in line 4. There is insufficient antecedent basis for this limitation in the claim. There is no recitation as to a specific "determination" being made prior to the instant claimed feature. Claims 15, 32 & 36 likewise recite the instant feature of "said determination".

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 7, 9-23, 25-27, 29-30, 32-34, 36-38 & 40-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Young, (U.S. Pat # 5,353,121).

Considering claim 1, the amended claimed computerized method for scheduled caching of in-band data in a channel comprising a real-time scheduling process; and a user initiated scheduling process for determining a scheduled time and channel for in-band data is met by Young (Fig. 2; Fig. 4; Fig. 22A; col .4, lines 9-40; col. 18, lines 20-37). The above cited portions of Young discloses a system wherein a subscriber views an EPG containing a time, date & channel schedule of future programming broadcasts. The subscriber is enabled to select a program to be received and/or recorded by the user's data terminal at a particular time, which reads on invoking the real-time scheduling process to schedule execution of a caching process at approximately the scheduled time.

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Young teaches that the data terminal of the subscriber compares the current time with the start time of the reserved program and automatically tunes to the proper channel when the reserved time is the same as the current time, (col. 4, lines 9-35; col. 21, lines 1-13), which is therefore executed regardless of the presence of the viewer.

Examiner points out that the claimed limitations reciting "in-band data broadcast" is broad enough to read on the system described in Young, wherein the in-data may be broadcast over a conventional CATV system utilizing a conventional frequency channel, such as a 6 MHZ channel (col. 23, lines 7-15). "In-band" data broadcasts include broadcasts that utilize any or all portions of a frequency channel.

Considering claim 2, the claimed feature of retrieving the scheduled time & and channel from a source reads on the standard operation of an EPG and is disclosed in Young, (col. 5, lines 60-68; col. 22, lines 21-25),

Considering claims 3 & 5, Young teaches that an EPG may be transmitted over a conventional channel or within the VBI of a channel, col. 18, lines 41-46.

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Considering claims 4, 13, 17 & 23, Young teaches that programming and control information may be transmitted over a channel, which necessarily requires a decoder such as a VBI decoder to process the information, (col. 18, lines 47-55).

Considering claims 7, 14, 20, 27, 34, 38 & 42, Young teaches that an EPG may be transmitted as in-band data, (col. 18, lines 36-63).

Considering claim 9, the instant claim is examined as best understood in light of the above 112 rejection. The claimed method steps of a scheduling process which corresponds with subject matter mentioned above in the rejection of claim 1, are likewise rejected. Regarding the amended claimed step of a determination to receive in-band data being initiated by the user, Young teaches that the user is enabled to choose to receive particular broadcasts (col. 19, lines 14-28; col. 21, lines 1-8). The additional claimed feature of storing in-band data on mass storage, reads on storage of data in a VCR device and RAM, as taught by Young (col. 12, lines 35-51; col. 18, lines 47-65; col. 19, lines 1-10).

Considering claim 10, the claimed step of displaying a plurality of schedules to user for selection, reads on Young wherein the user may view a plurality of different schedules of broadcasts at least according to different categories, (Fig. 4; Fig. 7; Fig. 16). Young furthermore

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teaches that the time & channel of broadcast is determined by a user's selection, (col. 19, lines 1-5).

Considering claims 11, 19 & 22, Young teaches determining a source for and retrieving an EPG from the source, in that the tuner is tuned to a channel to received updates for the EPG (col. 18, lines 37-55).

Considering claim 12, the source for the schedule in Young is in-band data broadcasts.

Considering claim 15, the instant claim is examined as best understood in light of the above ¶ 12 rejection. The claimed steps of a scheduling process which corresponds with subject matter mentioned above in the rejection of claim 9, are likewise rejected. Regarding the additional limitation of storing the recited steps on a computer readable medium having computer executable-instructions stored thereon for performing the steps, Young discloses storing instructions in memory, which are controlled by the CPU, (col. 118, lines 49-52; col. 19, lines 32-41; col. 21, lines 49-68).

Considering claim 16, the claimed elements of a digital processing system corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected.

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Considering claim 18, as discussed above in the rejection of claim 10, Young provides a plurality of scheduling options for receiving broadcast programming.

Considering claim 21, the claimed elements of a computerized system for scheduled caching corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected.

Considering claim 25, the claimed elements of an information handling system corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected.

Considering claims 26, 33, 37 & 41, Young is directed to receiving scheduled in-band data broadcasts.

Considering claim 29, the instant features are met by Young, (col. 19, lines 1-14; col. 21, lines 1-22).

Considering claim 30, the information is transmitted and received over a CATV channel.

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Considering claim 32, the claimed performance of steps comprised on a computer readable medium corresponds with subject matter mentioned above in the rejection of claim 9, and are likewise rejected.

Considering claim 36, the claimed method for handling information comprising steps corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected.

Considering claim 40, the claimed information handling system corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Young, in view of Yoshinobu (U.S. Pat # 5,686,954).

Considering claim 6, Young teaches that the system is also applicable for satellite communication, col. 23, lines 8-11, but does not specifically discuss the use of digital satellite technology. However Yoshinobu discusses the benefits of utilizing digital satellite technology, (col. 7, lines 62-67 thru col. 8, lines 1-7). It would have been obvious for one ordinary skill in the art at the time the invention was made, to modify Young with the well known feature of digital satellite communication, at least for the desirable improvement of a more effective transmission scheme as taught by Yoshinobu.

7. Claims 8, 24 & 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young.

Considering claims 8, 24 & 31, Young teaches that when the system clock matches a scheduled time of a user selected recording, the cable decoder is tuned to the proper channel and a power-on and record commands are transmitted to the recording device. Even though Young does not also explicitly state that the tuner may also be powered-on, Official Notice is taken that such a feature was well known in the art at the time the invention was made. It would have been obvious for one ordinary skill in the art at the time the invention was made, to modify Young with

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the well known technique of automatic power-on of a tuner in order for the subscriber to receive requested programming at the appropriate time.

8. Claims 28, 35, 39 & 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young, in view of LaJoie (U.S. Pat # 5,850,218).

Considering claims 28, 35, 39 & 43, Young discusses the transmission and reception of in-band data, including at least EPG data but does not discuss Internet data. However, LaJoie discloses the desirable benefits of transmitting Internet related data, i.e URL data (col. 17, lines 30-67 thru col. 18, lines 1-10). It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Young to include Internet related data, for the known improvement of offering more services to the instant subscriber, as taught by LaJoie.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 9, 15, 16, 21, 25, 32, 36 & 40 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-6306, (for formal communications intended for entry)

Or:

(703) 308-6296 (for informal or draft communications, please label


"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399. The examiner can normally be reached on Monday thru Friday from 830am to 430pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for this Group is (703) 308-6306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.


ANDREW I. FAILE
SUPERVISORY PATENT EXAMINER
GROUP 2700